

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
09 MAR -3 PM 1:02
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

MICHAEL HAMILTON

Plaintiff,

v.

MIDWEST CREDIT SERVICE, INC. as
ASSIGNEE FOR CENTRA CREDIT UNION

Defendant.

CAUSE NO.:

1 : 09 - cv - 0268 WTL - JMS

COMPLAINT

AND

DEMAND FOR TRIAL BY JURY

NOW COMES the Plaintiff, Michael Hamilton ("hereinafter referred to as "Plaintiff");
by and through his attorney, Ryan Frasher, of Ryan Frasher P.C. and Christine M. Jackson of the
Chris Jackson Law Office; for his Complaint against Midland Credit Service, Inc. as Assignee
for Centra Credit Union, (hereinafter referred to as "Defendant"), and respectfully shows the
Court as follows:

I. INTRODUCTION

1. This complaint is filed for violation of the Fair Debt Collection Practices Act
("FDCPA"), 15 U.S.C. § 1692 et.al.

II. JURISDICTION & VENUE

2. This Court has jurisdiction under the FDCPA pursuant to 15 U.S.C § 1692k(d) and 28 U.S.C. § 1331, 1337.

3. The events which give rise to Plaintiff's claims occurred in Morgan County, Indiana. Therefore, venue is proper in the Southern District of Indiana.

III. PARTIES

4. Plaintiff is an adult citizen of the State of Indiana residing in Martinsville, Indiana which is located in Morgan County.

5. Defendant is an Indiana Corporation with its principal place of business in Indianapolis, Indiana, and an office located at 431 East Hanna Ave, Ste B, Indianapolis, IN 46277.

6. At all times relevant, Defendant was engaged in the business of collecting debts in the state of Indiana and made use of the United States mail in regularly collecting or attempting to collect debts owed or due or asserted to be owed or due to other entities.

7. Defendant is a "debt collector" as defined by the Fair Debt Collection Practices Act, 15 U.S.C. § 1692(a)(6).

IV. FACTUAL ALLEGATIONS

Fair Debt Collection Practices Act Violation By Defendant

8. Defendant filed a Notice of Claim against Plaintiff in the Morgan County Superior 3-Small Claims Court on March 4, 2008 for a debt that allegedly belonged to the Plaintiff.

9. Plaintiff denies any ownership of the alleged debt.
10. Plaintiff requested validation of the debt pursuant to 15 U.S.C. §1692g on or about April 23, 2008 via certified mail and return receipt requested.
11. Defendant responded in a May 13, 2008 communication which failed to properly validate the debt.
12. Defendant has failed to prove that Plaintiff has any ownership of the debt.
13. Plaintiff filed a Motion to Conduct Discovery on or about May 16, 2008. That motion was later denied by the Morgan Superior Court.
14. Defendant filed a 41(A) Notice of Dismissal without prejudice on or about June 11, 2008.
15. Plaintiff has attempted to settle this matter. However, Defendant has failed to respond to Plaintiff's October 6, 2008 letter in regards to settlement.

V. LEGAL ALLEGATIONS

16. The allegations of paragraphs 1 – 13 are realleged and incorporated by reference.
17. Defendant is a "debt collector(s)" of Plaintiff's alleged consumer "debt" as those terms are defined in the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692a(5-6).
18. Defendant violated FDCPA, 15 U.S.C. §1692f, by using unfair and unconscionable means to collect a debt.
19. Defendant violated FDCPA, 15 U.S.C. §1692e, by using false, deceptive or misleading representations or means in connection with the debt collection.
20. Defendant violated FDCPA, 15 U.S.C. §1692e(2), by misrepresenting the character, amount and legal status of the debt.

21. Defendant violated FDCPA, 15 U.S.C. §1692g, by failing to validate debt.

VI. RELIEF REQUESTED

WHEREFORE, the Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor and grant the following relief:

- a. Declare that Defendant violated the FDCPA, and enjoin it from continuing to commit any future violations of the FDCPA and award Plaintiff's actual damages (including those for mental anguish) and statutory damages pursuant to 15 U.S.C. § 1692k;
- b. Award Plaintiff's reasonable attorney's fees plus costs of this lawsuit pursuant to 15 U.S.C. § 1692k(k)(3).
- c. Grant all proper and just relief.

VII. DEMAND FOR JURY TRIAL

Plaintiff Michael Hamilton, by counsel, respectfully requests a jury trial on all issues deemed so triable.

Respectfully submitted,



Ryan Frasher, P.C. (#27108-49)
Attorney & Counselor At Law
155 East Market Street, 450
Indianapolis, IN 46204
Phone: 317-634-5544
Fax: 317-630-4824
Email: frasherlaw@gmail.com

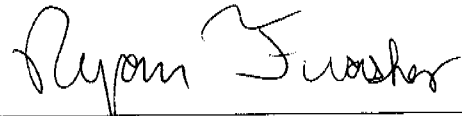
Christine M. Jackson (#25321-49)
CHRIS JACKSON LAW, LLC
8555 Cedar Place Drive
Suite 111-A
Indianapolis, Indiana 46240
Phone: 317-466-9750
Fax: 317-663-1166
Email: chris@chrisjacksonlaw.com

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing; via first class U.S. mail, postage prepaid; and/or certified mail, return receipt requested; to each of the parties listed below on or about the day of filing, by depositing a copy of the same in the U.S. Mail addressed as follows:

James McAllister
Midwest Credit Service, Inc.
431 E. Hanna Indianapolis, In 46227

Midwest Credit Service, Inc.
c/o Daniel W. Sandlin
Sandlin Law Office
24 East 16th Street
Indianapolis, IN 46202

A handwritten signature in cursive script, reading "Ryan Frasher", written over a horizontal line.

Ryan Frasher
Attorney at Law